

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF TEXAS

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2016 AUG 31 PM 12: 26

Eric Williams

Pro Se Plaintiff, Candidate

DEPUTY CLERK

NT

v.

Defendants.

8-16CV2516-M

KEITH INGRAM, sued in his official capacities as the **Director of Elections** for the State of Texas Secretary of State, **COBY SHORTER III**, sued in his official capacities as the Deputy Secretary of State

**COMPLAINT FOR DECLARATORY JUDGMENT AND
PRELIMINARY AND PERMANENT INJUNCTION
AND A TRO**

Now comes the Plaintiff, Eric Williams Pro Se ("Plaintiff Candidate"), for his complaint at law against the Defendant Keith Ingram, in his official capacities as the Director of Elections for the State of Texas in the elections division of the Secretary of State for the State of Texas and Coby Shorter III, in his official capacities as Deputy Secretary of State for State of Texas.

JURISDICTION & VENUE

1. This Complaint is brought pursuant to 42 U.S.C. 1983 and 1988 and the First Fourteenth Amendments to the United States Constitution. Jurisdiction is founded on 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4) and the aforementioned statutory and constitutional

U.S.C. § 1391(b)(1) and 1391(b)(2), in that ProSe Plaintiff, Candidate Eric Williams resides within this District and a substantial part of the events and omissions giving rise to the Plaintiffs' claims occurred within the Northern District of Texas.

PARTIES

2. Pro Se Plaintiff, Candidate Eric Williams, is a resident of Dallas, Dallas County, Texas. He filed a Declaration of Intent as an independent candidate on December 14, 2015 for election to the office of Representative in the United States House of Representatives for the 30th District of Texas for the General Election to be held on November 8, 2016.

3. Defendant Keith Ingram is an appointed Director of Elections for the State of Texas, a state agency, and its Director, in which capacity he acts under color of state law to administer and enforce the provisions of Texas's Election Code, and other provisions of the Election Code.

4. Defendant Coby Shorter III, is Deputy Secretary of State for the State of Texas, a state agency, and its Deputy Secretary of State, in which capacity he acts under color of state law to administer and enforce the provisions of Texas's Election Code.

FACTUAL ALLEGATIONS

CUMULATIVELY, TEXAS' BALLOT ACCESS LAWS VIOLATE THE U.S. CONSTITUTION'S FIRST AMENDMENT & FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE

Pro Se Plaintiff, Independent Candidate Eric Williams was required to collect 500 signatures from voters who reside in District 30, Dallas, Texas. ProSe Plaintiff, Independent Candidate Eric Williams collected 960 signatures from registered voters who supported his application for a place on the general election ballot. Only registered voters in District 30 could sign his petition and they could not have voted in the March primary. Texas Election Code 142.007 and 142.009.

On June 22, 2016, ProSe Plaintiff, Independent Candidate Eric Williams timely submitted his application along with his petitions to Keith Ingram, Director of Elections for the Secretary of State for Texas. On July 1, 2016, days after the 5 days required to notify a candidate of their candidacy status, ProSe Plaintiff, Independent Candidate Eric Williams finally received a letter informing him, he was ineligible pursuant to Texas Election Code 162.015 (a) (1). and his name would not appear on the November 8, 2016 general election ballot. This late letter is a pattern, evident by the most recent letter received from Keith Ingram and the State of Texas Secretary of

This occurred during my run for Dallas City Council where, I requested an investigation but no response until now. **By law they, where to have responded in 10 days. How can, I trust a system that will not reposed to complaints in a timely manner.**

ProSe Plaintiff, Independent Candidate Eric Williams , argues that *section 162.015* restricts the right of a citizen who seeks access to the general election ballot to vote because the statute restricts a candidate to voting only in the primary of the party in which he wishes to be a candidate in the general election. Further, ProSe Plaintiff, Independent Candidate Eric Williams argues that the section prohibits an "independent" candidate from voting in citizen taxpayer funded primaries for both parties for any office.

The Texas Election Code does not explicitly characterize party candidacy as "affiliation" with a political party, see *TEX. ELEC. CODE* §§ 162.004, 162.012, 162.014. The Texas Election Code provides that an individual can only affiliate with one political party per election cycle and precludes a person from voting in the primary of one political party and then voting in a run-off primary for another political party. This was not my case.

ProSe Plaintiff, Independent Candidate Eric Williams contends that the State's alleged interests do not apply in his case or are *de Minimis*. He concedes that many of the interests *section 162.015* advances are implicated and important in the "sore loser" context, but not here.

ProSe Plaintiff, Independent Candidate Eric Williams asserts that there is no state interest of significant importance that justifies "preventing him as a independent candidate to gain ballot access, and from exercising his constitutional protected right to vote in the primary of his choice.

Under these unique facts, as a independent candidate, I could not possibly, by voting in the Dallas County Constables run-off, which was not even associated with my own race, could improperly affect my race for U.S. Congress . . . nor could such a vote cause voter confusion, chaos, or any other harm to the electoral process," including party raiding.

ProSe Plaintiff, Independent Candidate Eric Williams is a "independent" and not affiliated with any party. I will now be "defrocked" of my candidacy and thereby disenfranchising my supporters and the voters of District 30, Dallas, Texas.

Section 162.015 is unconstitutional as written and as applied

to ProSe Plaintiff, Independent Candidate Eric Williams . The statute impermissibly burdens my right to vote and violates my substantive due process rights.

ProSe Plaintiff, Independent Candidate Eric Williams contends that *section 162.015* allows a prospective candidate to hedge his or her candidacy options for a particular office by voting in the primary of one political party. If the prospective candidate lost a party's nomination in the primary, construction of *section 162.015(a)* would affirmatively authorize the prospective candidate to seek the same office as a candidate for another political party. That interpretation is antithetical to the statute's most obvious and laudable purpose, which is to prevent candidates from having more than one bite at the apple in a single election year by precluding a primary candidate from running in the general election for the same office as an independent, or a write-in candidate, or a candidate for any other political party that nominates its candidates by primary election.

See TEX. ELEC. CODE § 162.015(a), (b); see also Nat'l Comm. of the U.S. Taxpayers Party v. Garza, 924 F. Supp. 71, 74-75 (W.D. Tex. 1996) (holding that the sore- loser provisions of *section 162.015* are reasonable, nondiscriminatory, and constitutional).

ProSe Plaintiff, Independent Candidate Eric Williams argue that *section 162.015(a)(2)* is clearly an ineligibility statute rather than an eligibility statute, the statute's plain and unambiguous meaning is that an otherwise eligible candidate is ineligible if the candidate votes. ProSe Plaintiff, Independent Candidate Eric Williams is not ineligible by virtue of the crossover candidacy element of *section 162.015(a)(2)*, but I am made ineligible by virtue of the crossover voting. ProSe Plaintiff, Independent Candidate Eric Williams also points out that both the Secretary of State and the Attorney General have adopted this construction,

see Op. Tex. Sec'y State No. DAD-65 (1982); Op. Tex. Att'y Gen. No. 96-094 (1996), and they defer to these prior administrative interpretations.

The Texas Election code prohibits a primary candidate from later running for the same office as an independent, and *section 162.015(b)* prohibits a primary candidate from later running for the same office as a write-in candidate. These so-called "sore loser" provisions of *section 162.015* are not at issue in this case. *TEX. ELEC. CODE* § 162.015(a)(2). *Section 162.015(a)(1)*

ProSe Plaintiff, Independent Candidate Eric Williams argues that the penalty imposed upon him for violating this restriction is "severe," namely, forfeiture of his certification for public office and his name appearing on the November 8, 2016 General Election ballot as a "independent candidate for Congress" seeking to represent District 30 Dallas, Texas. ProSe Plaintiff, Independent Candidate Eric Williams also asserts the restrictions violate his First and Fourteenth Amendments to the United States Constitution by violating his civil rights. Every voter has a right to be a candidate for a public office if he possesses the qualifications required to fill the office.

This Court has jurisdiction for "an order granting or denying an permanent injunction on the grounds of the constitutionality of a statute of this state." *TEX. GOV'T CODE* § 22.001(c); see also *TEX. CONST. art. V, § 3-b*. Here, the trial court issued a final judgment, declaring *section 162.015* unconstitutional. ProSe Plaintiff, Independent Candidate Eric Williams seeks to permanently enjoin The State of Texas Secretary of State from declaring ProSe Plaintiff, Independent Candidate Eric Williams ineligible for a place on the November 8, 2016 general election ballot based on *section 162.015*.

ProSe Plaintiff, Independent Candidate Eric Williams has ran for political office three times. In 2014, he was certified for the General Election ballot as a independent where he earned over 5,000 votes.

The following year in 2015, he ran for Dallas City Council. His name was left off the ballot in several precincts as a result of electronic voter fraud. He along with another candidate filed a compliant with the State and Dallas county for voter fraud lawsuit which later tossed from court and now his 2016 run for U.S. Congress.

Section 162.015(a)(2) severely burdens my right to vote, this severe restriction on the right to vote warrants strict scrutiny and cannot survive unless it is narrowly tailored to serve a compelling state interest.

The complained-of requirements, when viewed in the totality of the circumstances, constitute a regimen or scheme imposed on ProSe Plaintiff, Independent Candidate Eric Williams by the Defendants to unconstitutionally limit ballot access to only two established political parties, i.e., the "two party system." Defendants' obstructions notwithstanding,

Texas voters desire more, not fewer, choices on the ballot, and a majority of voters disapprove of the "two-party system." The disapproval of the "two-party system" was confirmed in Texas during the March 2016 primary. This was the lowest voter turnout for a Primary Election Primary.

Dallas County is a county located in the U.S. state of Texas. As of the 2010 census, the population was 2,368,139. It is the second-most populous county in Texas and the ninth-most populous in the United States. 24.1 % of the people in district 30 reside in poverty. From 2000 to 2012, the number of poor people in Dallas rose by 41 percent. That far outweighs the city's overall 5 percent population growth during the same period.

3500 kids are homeless in district 30. Dallas has the highest child poverty rate among cities Larger than 1 million people: Two of every five kids grow up poor. Dallas has the third-highest overall poverty rate among large cities. More than half of Dallas' poor are Black and Hispanic.

From 2000 to 2012, the median family income for single moms with kids in Dallas fell by 30 percent – from \$28,026 to \$19,559. It's not acceptable for a city as full of wealth and opportunity as district 30 of

Dallas to be ranked third or fourth poorest urban center in the United States behind Detroit, Memphis and Philadelphia.

The poverty statistics are staggering and that's why we are here today because it is an epidemic brought on by corrupt leadership from Congresswoman Eddie Bernice Johnson and other corrupt black elected officials in Dallas. 51% of district 30 public schools are failing. Crime, black on black killings and police brutality is at an all time high. Finally, our police are unpaid, overworked, unappreciated and leaving in droves.

There is a concerted effort by the Republican and Democratic party to keep the North and South sides divided and in their control, and that is why my being placed on the ballot and elected is important and crucial to help change the dynamics. Dallas for years had been taking hundreds of millions of dollars in federal desegregation money and falsely swearing the money was used for the intended legal purpose. Instead, Dallas used the money to bring about segregation and even pulled the rug from under developers who didn't go along.

As an example today, the city of Dallas under the Federal leadership of Congresswoman Johnson, have reported in their own city audit that over \$30 to \$100 million in Federal HUD dollars can not be accounted for and is missing. In addition, gentrification is making our black elderly

homeless from areas that were once redlined communities. They are now forced to live on the streets and beneath bridges.

Hundreds of people in my district have been without drinkable WATER for over 30 years in Sand branch, Texas. This is in direct violation of the Federal Clean Drinking Water Act of 1974.

This is just a sampling of what 30 years in the seat at 80 years old in a gerrymander district will do to oppressed people on the verge of becoming a permanent underclass.

The Texas Election Division enforcement requirements of the election Code, in the totality of the circumstances, impose heightened, severe, and excessive burdens upon the ProSe Plaintiff, Independent Candidate Eric Williams, and his rights to Free Speech and Freedom of Association, that are not narrowly tailored and are not the least restrictive means to achieve the State's legitimate interests.

The Supreme Court has recognized that "states retain the power to regulate their own elections." *votes because*, 504 U.S. at 433.

"Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections; as a practical matter, there must be a

If some order, rather than chaos, is to accompany the democratic
Election processes, we and I need relief.

See, e.g., Garza, 924 F. Supp. at 73 (identifying a number of
important interests served by *section 162.015* in affirming the
constitutionality of the "sore loser" provisions of the statute); *see*
also Storer v. Brown, 415 U.S. 724, 726, 39 L. Ed. 2d 714, 94 S. Ct.
1274

(1974) (outlining the same interests cited in *Garza* and noting that the
State has a compelling interest in protecting the stability of the
political system).

The foregoing facts describe the State's severe and overly
burdensome restrictions on ballot access, which resulted in a
violation of Pro Se Defendant ,Candidate Eric Williams constitutional
rights.

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Issue a declaration that *TEX. ELEC. CODE* §§
162.004, 162.012, 162.014, 162.015 and the 5%-minimum-signature
requirement of the Election Code, both facially and as applied, or
alternatively only as applied, is unconstitutional, being inconsistent
with the First and Fourteenth Amendments to the United States
Constitution; *And a(TRO)*

B. Enter a preliminary injunction and permanent order enjoining
Defendants from enforcing *TEX. ELEC. CODE* §§
162.004, 162.012, 162.014, 162.015 and 142.004 142.007(2) .
141.032 (a), (c) & (e) the 5%-minimum-signature requirement of the
Election Code, as applied to ProSe Plaintiff, Independent Candidate
Eric Williams nominating petition, and enjoining Defendants to direct
that the name of ProSe Plaintiff, Independent Candidate Eric
Williams, as an independent candidate for Texas' 30th
Congressional District, be printed upon the November 8, 2016,
General Election ballot; **and that the ballot not be certified on Sept 1,
2016 for District 30, Dallas, Texas until a ruling has been made.**

C. Award such other and further relief as this Court deems just and equitable.

D. Award ProSe Plaintiff, Independent Candidate Eric Williams the reasonable costs and expenses of this action, including attorney fees pursuant to the Civil Rights Attorney's Fees and Awards Act of 1976, 42 U.S.C. § 1988;

E. Issue a declaration calling for FEDERAL ELECTION OBSERVERS to monitor early voting and the general election in District 30, Dallas, Texas on November 8, 2016.

RESPECTFULLY SUBMITTED,
ProSe Plaintiff, Independent Candidate Eric Williams

By Eric L. Williams

Eric Williams
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Dallas, Texas 75232
ericwilliamsforcongress@gmail.com

972 895 2295
214-730-9050c

K) Mac Jackson
Run-off Flyer
L) DMN - State Lawsuit
M) DMN - Lawsuit
(O) Petition Signatures
(960)

Exhibits Attached

A) Petition Application
B) Dec 14, 2015 Letter
SS
C) July 1, 2016 Rejection Letter
D) Aug 25, 2016 Complaint
Letter
E) May 19, 2015 Atty. Gen. Petition
F) Jan 24, 2015 DMN
G) DMN - Lawsuit. State
H) Dallas Observer - Rep. Party
Chair Resigns
(I) Dallas City Audit
(J) DMN Sand Branch

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Eric L. Williams

DEFENDANTS

Kieth Ingram, Coby Shorter III

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pro SE

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

AUG 31 2016

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

8-16CV2516-M

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question
(U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

Citizen of This State

PTF DEF
☒ 1 ☐ 1

Incorporated or Principal Place of Business In This State

PTF DEF
☐ 4 ☐ 4

Citizen of Another State

☐ 2 ☐ 2

Incorporated and Principal Place of Business In Another State

☐ 5 ☐ 5

Citizen or Subject of a Foreign Country

☐ 3 ☐ 3

Foreign Nation

☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 1983 and 1980 and the First and Fourteenth Amendment
Brief description of cause: Ballot Access Laws + Voting Rights.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
120CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE